



UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE

PERKINS COIE LLP  
PATENT-SEA  
P.O. BOX 1247  
SEATTLE, WA 98111-1247

COPY MAILED

JUN 16 2005

Director's Office  
Office of Patent Publication

In re Application of

John Chenault

Application No. 09/995,966

Filed: November 28, 2001

Attorney Docket No. 249768059US

:

:

:

:

DECISION ON PETITION

This is a decision on the Petition Under 37 C.F.R. § 1.181, received in the United States Patent and Trademark Office (USPTO) on June 2, 2005.

The petition is **DISMISSED**. Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO MONTHS (2) from the mail date of this decision.

The application was held abandoned for failure to timely pay the issue fee within the statutory period of three months, as required in the Notice of Allowance and Fee(s) Due mailed January 13, 2005. Accordingly, the Notice of Abandonment was mailed May 25, 2005.

Petitioner states that on March 4, 2005 a Supplemental Notice of Allowance was issued to correct an error occurring in an Examiner's Amendment contained in the January 13, 2005 Notice of Allowance. Also, that the Supplemental Notice establishes a new deadline of June 4, 2005 for pay the issue fee. Petitioner indicates that the issue fee is being paying today (with the Petition). A copy of the Form PTOL-85 is enclosed.

Investigation of the patent application doesn't reveal any presence of a Supplemental Notice Of Allowance. It does reveal that a Supplemental Notice of **Allowability** was mailed on March 4, 2005, which does not extend or restart the time period to pay the fee(s).

The petitioner's copy of Part B – Fee(s) Transmittal submitted with the petition, reveals that the applicant has changed the Date Due on the form, to June 4, 2005.

Since, the period to pay the issue fee was not restarted, the holding of abandonment for the above-identified patent application was proper.

The holding of abandonment will not be withdrawn as this time.

Although this petition for withdrawal of the holding of abandonment is being dismissed, Petitioner may seek relief by filing a Petition for Revival of Abandoned Application under 37 CFR § 1.137 (a) or (b). (Forms are available at USPTO website <http://www.uspto.gov>)

- Under 37 CFR 1.137(a), a petition for the revival of an **unavoidably** abandoned application must be accompanied by the following:

- (1) The required reply to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee set forth in § 1.17(l);
- (3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (c) of this section.
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (c) of this section.

- Under 37 CFR 1.137(b), a petition for the revival of an **unintentionally** abandoned application must be accompanied by the following:

- (1) The required reply to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d) required pursuant to paragraph (c) of this section.

Further correspondence with respect to the petition for revival under 37 CFR 1.137 should be directed to the Office Of Petition at 703-305-9282 or addressed as follows:

By mail: Commissioner for Patents  
P O Box 1450  
Mail Stop Petitions  
Alexandria, VA 22313-1450

Telephone inquires concerning this decision may be directed to the undersigned at 703-308-9250.



Thomas E. Hawkins  
Paralegal Specialist  
Office of the Director  
Office of Patent Publications